

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
YESMINE GRADY,

Plaintiff,

-against-

PAUL ANNETS, et al,

Defendants.  
-----X

**ANSWER TO COMPLAINT**

07 CV 3776

JURY TRIAL DEMANDED

Defendants Paul Annetts, Sargent Cardelli, Correction Officer Moore, Maria Alomar, and M. Santos (collectively “defendants”), by way of answer to the complaint of plaintiff herein, state as follows:

1. The allegations of the complaint’s preliminary statement, as well as sections dealing with jurisdiction and venue together with parties (paragraphs 1 through 8), assert a mixture of factual and legal claims. As to the allegations concerning plaintiff’s personal background, beliefs and deportment, defendants lack knowledge or information sufficient to answer. Defendants deny that a search violating plaintiff’s constitutional rights was conducted. Plaintiff’s legal assertions are respectfully referred to the Court for determination, and are otherwise denied. Defendants admit being employed at relevant times by the New York State Department of Correctional Services (DOCS), and refer the Court to DOCS’ documentation specifying their job responsibilities.

2. Defendants lack knowledge or information sufficient to form a belief as to the allegations of paragraphs 9, 10, and 11.

3. As to the allegations of paragraphs 12 and 13, defendants refer to the DOCS documentation concerning visitation procedures, and otherwise deny such allegations.

4. As to the allegations of paragraph 14, defendants admit that a visitor log records a visit from plaintiff on August 2, 2005. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations.

5. Defendants deny the allegations of paragraphs 15 and 16, except as events are reflected on notice of consent to search signed by plaintiff.

6. Defendants deny the allegations of paragraphs 17, 18 and 19, except admit that defendant Alomar participated in a consent search of plaintiff.

7. Defendants deny the allegations of paragraphs 20, 21, 22, 23, 24, 25 and 26, except admit that defendant Santos participated in a consent search of plaintiff.

## **DEFENSES**

### **FIRST DEFENSE**

8. Plaintiff's claims are barred, in whole or in part, by the applicable Statute of Limitations and/or by the doctrine of laches.

### **SECOND DEFENSE**

9. Plaintiff's claims, in whole or in part fail to set forth a claim, or to allege sufficient facts upon which relief may be granted.

### **THIRD DEFENSE**

10. Defendants' actions were not violative of plaintiff's clearly established constitutional rights of which reasonable persons in defendants' position would have been aware and, as such defendants are entitled to qualified immunity

### **FOURTH DEFENSE**

11. Defendants at no time acted willfully or maliciously in disregard of plaintiff's constitutional rights, and therefore plaintiff is not entitled to punitive damages or other relief.

**FIFTH DEFENSE**

12. To the extent defendants are sued in their official capacities, this action is barred in whole or in part, by the Eleventh Amendment to the United States Constitution.

**SIXTH DEFENSE**

13. The complaint fails pursuant to the doctrines of consent, waiver and estoppel.

**WHEREFORE**, defendants respectfully request dismissal of the complaint, together with costs and any other relief which the Court deems to be appropriate.

Dated: New York, New York  
August 30, 2007

Respectfully submitted,

ANDREW M.. CUOMO  
Attorney General of the  
State of New York  
Attorney for Defendants  
By:

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Assistant Attorney General  
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New York, New York 10271  
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LEE ADLERSTEIN  
Assistant Attorney General  
of Counsel

**DECLARATION OF SERVICE**

Lee Adlerstein, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury as follows:

That on August 30, 2007 , I caused one copy of the Defendants' Answer to be served on:

James B. LeBow  
488 Madison Avenue  
Suite 1100  
New York, NY10022

plaintiff's attorney, by depositing these documents in a sealed, properly addressed envelope, with postage prepaid, in an official depository of the United States Postal Service within the State of New York.

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/ s/  
LEE ADLERSTEIN  
Assistant Attorney General

Executed on August 30, 2007